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OCCUPATIONAL LICENSING

BEFORE THE IDAHO STATE LICENSING BOARD OF PROFESSIONAL  
COUNSELORS AND MARRIAGE & FAMILY THERAPISTS

In the Matter of the	)	
License of:	)	Case No. COU-P4B-03-01-001
	)	COU-P3C-03-02-006
KATHERINE CRISTINE WOLFF,	)	
License No. LCPC-2699,	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
	)	<b>OF LAW AND RECOMMENDED ORDER</b>
Respondent.	)	

This matter came on for hearing on July 30, 2004, on the Order to Show Cause and Notice of Hearing issued by the Idaho State Licensing Board of Professional Counselors and Marriage & Family Therapists. The Board appeared by and through its attorney of record, Stephanie N. Guyon, and Katherine Wolff appeared in person, representing herself. The Board rested upon the Affidavits filed in support of the Order to Show Cause. Ms. Wolff presented her statement.

**FINDINGS OF FACT**

1. Katherine Wolff was issued a license by the Idaho State Board of Counselors and Marriage & Family Therapists, License No.

LCPC-2699.

2. On May 21, 2003, a disciplinary complaint was filed against Ms. Wolff alleging improper sexual contact with patients. In resolution of that complaint, Ms. Wolff and the Board entered into a Stipulated Reprimand and Final Order. The stipulation was signed by Ms. Wolff on February 24, 2004, and adopted and approved by the Board on March 8, 2004. The Stipulated Reprimand and Final Order, Paragraph C.2, provided that Respondent's license would be suspended for a period of one year, which suspension was stayed subject to Ms. Wolff's compliance with all the terms and conditions of the stipulation. The stay of the suspension would be lifted if Ms. Wolff was found to be in default on any of the terms and conditions of the Stipulated Order. Paragraph C.2 states: "Imposition of the suspension will cause the probationary period to be held in abeyance." Paragraph C.3 required Ms. Wolff to pay an administrative fine of \$1,000 in full within 45 days of the Board adoption of the stipulation.

3. Paragraph C.5 further placed Ms. Wolff's license on probation for a period of two years subject to probationary requirements that she comply with all federal, state and local laws and rules governing the practice of counseling and that she receive monthly counseling with Dr. Craig Beaver for a minimum of six months or until released by Dr. Beaver. Reporting to the Board by Dr. Beaver was required.

4. Paragraph C.8 further provided that violation of the

terms of the stipulation would warrant further Board action and may result in removal of the stay of suspension. Paragraph C.9 states:

In the event any new charges are filed against Respondent during the probationary period this Stipulation may be in default and additional discipline, beyond the invoking of the suspension, taken by the Board.

5. Paragraph D.6 states any default in any terms of the Stipulated Order would be considered a violation of Idaho Code §54-3407, and in the event of default, the Board may impose additional discipline pursuant to the procedure established in the Stipulated Reprimand and Final Order. Any hearing based upon violations of the stipulation may be submitted on affidavits made on personal knowledge. Paragraph D.6.b. The Stipulated Reprimand and Final Order was hand-delivered and mailed to Ms. Wolff and mailed and faxed to her attorney on March 8, 2004.

6. In addition, an Order of Emergency Suspension was issued by the Board on March 8, 2004, based upon circumstances leading to Ms. Wolff's guilty plea to a misdemeanor battery in Twin Falls. In the Order for Emergency Suspension, the Board found that, on February 18 and 19, 2004, Ms. Wolff engaged in conduct which constituted an impairment and suffered from physical, mental or emotional problems likely to harm a client or others. The Order to Show Cause notified Ms. Wolff of the intent of the Board to consider imposition of additional disciplinary action against her.

7. The Order of Emergency Suspension of License was issued March 8, 2004, and was also hand-delivered and mail to Ms. Wolff

and was mailed and faxed to her attorney. That Order was issued as an emergency proceeding pursuant to Idaho Code §67-5247.

8. The Order of Emergency Suspension of License included findings that Ms. Wolff signed the Stipulated Reprimand and Final Order on February 24, 2004. A few days prior to that, on February 18 and 19, 2004, Ms. Wolff engaged in domestic violence, including use of a pistol, choking with a chain and physically beating her significant other, C.R. Ms. Wolff was also found to have engaged in psychologically abusive behavior toward C.R. The Emergency Suspension was issued pursuant to Idaho Code §54-3407(5), Board Rule 350, (IDAPA 24.15.01.350) and ACA Code of Ethics C.2. Ms. Wolff's license was suspended pending completion of further proceedings.

9. The Affidavit of John Kersey included copies of arrest records and criminal charges against Ms. Wolff. These records establish that, on February 18 and 19, 2004, Ms. Wolff engaged in a course of physical violence directed at her significant other, C.R. The counts included holding a pistol at the head of C.R. and attempting to choke C.R. with a silver chain. The violence included physically beating C.R., causing traumatic deep bruising on her legs, back and arm. Various documents attached to the report included psychological threats directed at C.R.

10. On June 24, 2004, an Order to Show Cause and Notice of Hearing was filed by the Board against Ms. Wolff. That Order to Show Cause states Ms. Wolff had failed to pay the \$1,000 adminis-

trative fine within 45 days of entry of the Board's Order and had failed to participate in monthly counseling with Dr. Beaver. The Board alleges Ms. Wolff's failure to comply with the terms of the Stipulated Order violates Idaho Code §54-3407.

11. On June 24, 2004, Budd Hetrick submitted an Affidavit establishing Ms. Wolff had not paid her \$1,000 fine as required by the Stipulated Order. Further, Ms. Wolff failed to obtain counseling through Dr. Beaver as established by a letter from Dr. Beaver received by the Board on May 24, 2004. Attached Court minutes establish Ms. Wolff had been charged with two criminal counts of aggravated assault and battery against her significant other. She pled guilty to a misdemeanor battery on May 7, 2004.

12. Attached to the Order to Show Cause were various documents, including the Stipulated Reprimand and Final Order. A review of the Certificate of Service of the Stipulated Reprimand and Final Order reveals Ms. Wolff received hand-delivered copies of the Stipulation and Order on March 8, 2004. A copy was also mailed to her on that date. In addition, copies were faxed and mailed to her attorney of record at the time, Scott Hess.

13. An Affidavit of Penny Ragland dated June 28, 2004, was also included in the record. Ms. Ragland, an investigator for the Bureau of Occupational Licenses, interviewed Ms. Wolff, C.R. and various relatives of C.R. She obtained written statements which were attached to the Affidavit. Those statements support a finding of a continued course of domestic violence by Ms. Wolff against

C.R. Ms. Wolff also advised various individuals that her problems were caused by seizures. Ms. Wolff does have a history of seizures for which she takes Dilantin and Klonopin.

14. The Board filed a Motion for Order Requiring Physical and Mental Evaluations to review the effect of seizures on Ms. Wolff's actions and determine her emotional and mental state. That request was granted by the Hearing Officer.

15. Pursuant to that Order, Ms. Wolff was evaluated by a neurologist, Dr. Kenneth Brait. Dr. Brait's evaluation was admitted as Exhibit 1, dated July 14, 2004. Dr. Brait unequivocally determined seizures were not responsible for Ms. Wolff's aggressive behavior and domestic violence.

16. Ms. Wolff also submitted to an evaluation performed by Larry Gold of Alternative Solutions, Inc., in Twin Falls. That evaluation was received the day of the hearing and was admitted as Exhibit 2. While Mr. Gold's report determined Ms. Wolff did not suffer from an impairment which would affect her ability to practice, the Board contends that they did not approve the choice of Mr. Gold and request further evaluation. Further evaluation by a Board-approved licensed psychologist or psychiatrist is warranted.

17. In response to the allegations, Ms. Wolff presented her own testimony. She tried to discount the criminal charges against her. However, as will be discussed below, this proceeding does not create a forum for her to challenge criminal convictions.

18. Ms. Wolff noted that, on March 9, 2004, she did write a \$1,000 check to the Bureau of Occupational Licenses, but then issued a stop payment order because she did not have the funds to cover the check. She did not intend to insult the Board, but readily admitted she did not pay the \$1,000 fine. She contends she did not pay the \$1,000 because she had to spend money on bail and attorneys for the criminal charges.

19. She is willing to do another Board-approved evaluation, but indicated she has no money for an evaluation.

20. Ms. Wolff requested that the Board be lenient with her, contending that she worked hard to become a counselor and does not take the charges likely. She stated she needs time to be allowed to rise up from Maslow's hierarchy of needs and she wishes to put her talents back to use and asks the Board to give her her license back.

21. Further, Ms. Wolff testified her attorney never told her when the Stipulated Order would become effective and that the document did not go into effect because of her further problems. She further contended she understood Dr. Beaver was merely to be a mentor, not a counselor.

22. The Hearing Officer finds that Ms. Wolff has violated the Stipulated Reprimand and Final Order by failing to pay the \$1,000 fine. Pursuant to the terms of the Stipulated Reprimand and Final Order, suspension of Ms. Wolff's license is warranted.

23. However, for the reasons discussed below, the Hearing

Officer does not find Ms. Wolff has violated that portion of the stipulation requiring counseling with Dr. Beaver because of the timing of the emergency suspension.

24. Further, the Hearing Officer finds that Ms. Wolff has engaged in significant criminal conduct which calls into question her mental, psychological and emotional ability to practice counseling. A full and complete evaluation by a Board-approved psychiatrist or psychologist is warranted before the Board determines whether Ms. Wolff's license should be reinstated.

### CONCLUSIONS OF LAW

1. Idaho Code §54-3400 provides that the practice of counseling affects the public health, safety and welfare and is subject to regulation by the Board to protect the public from unprofessional, improper, unauthorized and unqualified practice of counseling, and from unprofessional conduct by persons licensed to practice counseling.

2. Idaho Code §54-3404(7) grants to the Board the power to conduct hearings to suspend or revoke licenses for violations of the law and rules adopted pursuant to this chapter.

3. Idaho Code §54-3405 provides that good moral character is a required qualification for licensure.

4. Idaho Code §54-3407 invests the Board with power to revoke or suspend a license on various grounds, including conviction of a felony by a court of competent jurisdiction or for violation of any of the provisions of the licensing chapter or any



of the rules promulgated by the Board under authority of the chapter.

5. The Hearing Officer concludes that lifting the stay and imposing the suspension of Ms. Wolff's license for a period of one year was appropriate based upon her failure to pay the fine.

6. However, the Hearing Officer concludes that, due to the timing of the various Orders, there are no grounds to suspend Ms. Wolff's license based upon her failure to obtain counseling from Dr. Beaver. The requirement for counseling with Dr. Beaver is found in Paragraph C.5.c of the Stipulated Reprimand and Final Order and is a specific condition of probation. Paragraph C.2 provides that if the suspension is imposed based upon a default, "the probationary period" is held in abeyance. Consequently, since the Final Order was issued on March 8, 2004, the same day as the Order for Emergency Suspension of License, the probationary term is held in abeyance. Ms. Wolff's compliance with the required counseling is also held in abeyance and does not provide grounds for further discipline.

7. With respect to grounds for additional discipline, based upon the case of Wilson v. Idaho State Board of Pharmacy, 113 Idaho 547 (Ct.App. 1987), a criminal conviction may not be challenged in an administrative proceeding. In this case, Ms. Wolff pled guilty to a misdemeanor battery, not a felony. Consequently, Idaho Code §54-3407(2) does not provide grounds to impose additional discipline based upon her guilty plea.

8. However, grounds for further discipline do exist pursuant to Idaho Code §54-3407(5). IDAPA 24.15.01.350 of the Board rules adopted the American Counseling Association Code of Ethics and required licensees to adhere to the applicable Code of Ethics. The Code of Ethics, Paragraph C.2, states:

Impairment. Counselors refrain from offering or accepting professional services when their physical, mental, or emotional problems are likely to harm a client or others. They are alert to the signs of impairment, seek assistance for problems, and, if necessary, limit, suspend, or terminate their professional responsibilities.

The Hearing Officer concludes that Ms. Wolff's conduct is indicative of a possible mental or emotional impairment which is likely to harm a client or others. The Hearing Officer concludes it would be appropriate to require a full and complete evaluation by a Board-approved and Board-selected psychiatrist or psychologist before Ms. Wolff's license is reinstated.

### RECOMMENDED ORDER

Based upon the foregoing, it is hereby recommended that the Board take such disciplinary action as it deems necessary, appropriate and consistent with the Findings of Fact and Conclusions of Law.

DATED This 17th day of August, 2004.

JEAN R. URANGA  
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JEAN R. URANGA  
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 17<sup>th</sup> day of August, 2004, I served true and correct copies of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER by depositing copies thereof in the United States mail, postage prepaid, in envelopes addressed to:

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Respondent.

Case No. COU-P4B-03-01-001  
COU-P3C-03-02-006

SCHEDULE FOR REVIEW

The Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order ("the Recommended Order") shall be reviewed by the agency head, the Board, in accordance with the following schedule:

1. This is a Recommended Order of the Hearing Officer. It will not become final without action of the Board. Any party may file a petition for reconsideration of the Recommended Order with the Hearing Officer issuing the Order within fourteen (14) days of the service date of this Order. The Hearing Officer issuing the Recommended Order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code §67-5243(3).